

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESE DAVID CASILLAS CARRILLO (2);
ROSA GRANADOS (3); and
FRANCISCO DUARTE FIGUEROA(6)

Defendants.

Nos. 4:15-CR-06049-EFS

**ORDER GRANTING DEFENDANTS' MOTION
TO CONTINUE**

CASE MANAGEMENT ORDER

A pretrial conference occurred in the above-captioned matter on September 27, 2016. ECF No. 91. Defendants Jese David Casillas Carrillo (2) and Francisco Duarte Figueroa (6) were present and represented by counsel Robin Collett Emmans and Rick Lee Hoffman, respectively. During the hearing, Assistant U.S. Attorney Stephanie Van Marter advised the Court that co-defendant Rosa Granados (3) had recently been arrested and the Government anticipates another superseding indictment, voluminous discovery, and a complex investigation. Ms. Van Marter requested trial in this matter be reset to spring 2017. Defense counsel agreed, and Defendants Casillas Carrillo and Duarte Figueroa supported the request for a trial continuance for the articulated reasons. ECF Nos. 99 & 100. The Court

1 granted the Government's motion to continue at the hearing; this Order
2 memorializes and supplements the Court's oral ruling.

3 On December 16, 2015, the USAO filed a sealed indictment, which
4 included Defendants Jese David Carrillo Casillas and Rosa Granados.
5 ECF No. 1. Then, on September 7, 2016, the USAO filed a sealed
6 superseding indictment, which also included Defendant Francisco Duarte
7 Figueroa. ECF No. 55. In August 2016, defense counsel appeared for
8 Defendants Casillas Carrillo and Duarte Figueroa, ECF Nos. 2 & 50;
9 James E Egan was appointed to represent Defendant Rosa Granados on
10 September 27, 2016, ECF No. 90. This is the first request for a
11 continuance.

12 The Court finds this case is complex. In order to ensure
13 adequate time to conduct and review discovery, prepare any pretrial
14 motions, conduct investigation, and prepare for trial, the Court
15 grants the motion, extends the pretrial motion deadline, and resets
16 the currently scheduled pretrial conference and trial dates. The
17 Court finds that Defendants' continuance request is knowing,
18 intelligent, and voluntary, and that the ends of justice served by
19 granting a continuance outweigh the best interest of the public and
20 Defendants in a speedy trial. The delay resulting from the
21 continuance is therefore excluded under the Speedy Trial Act.

22 Having considered the parties' proposed case schedule, the Court
23 now enters the following Case Management Order. All counsel are
24 expected to carefully read and abide by this Order. The Court will
25 grant relief from the requirements in this Order only upon motion and
26 good cause shown.

1 **IT IS HEREBY ORDERED:**

2 1. The parties' oral Motion to Continue is **GRANTED**.

3 2. The Court finds, given the need for more time to conduct
4 and review discovery, prepare any pretrial motions, conduct
5 investigation, and prepare for trial, that failing to grant
6 a continuance would result in a miscarriage of justice and
7 would deny defense counsel the reasonable time necessary
8 for effective preparation, taking into account the exercise
9 of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(i),(iv).
10 The Court, therefore, finds the ends of justice served by
11 granting a continuance in this matter outweigh the best
12 interest of the public and Defendants in a speedy trial.
13 See 18 U.S.C. § 3161(h)(7)(A).

14 3. **Emailing the Court.** Where this Order requires counsel to
15 email documents to the Court, all documents shall be
16 attached to the email in Microsoft Word (.doc/.docx) or
17 rich-text (.rtf) format. The subject line of each email
18 shall be formatted as follows:

19 **[Case No.]; [Case Name]; [Title of Document]**

20 (e.g.: 16-CR-9999-EFS; USA v. Doe; Trial Brief)

21 4. **CM/ECF Training.** The Eastern District of Washington uses
22 electronic filing through CM/ECF. Counsel must contact the
23 Clerk's Office to arrange CM/ECF training within 30 days of
24 appearance in this case or be otherwise experienced in the
25 use of CM/ECF either in the Eastern District of Washington
26 or another district.

1 **5. Discovery**

2 **A.** All discovery documents must be Bates-stamped with a
3 unique identifier and must be produced digitally in a
4 text-searchable format. The Court will grant relief
5 from this requirement only in exceptional
6 circumstances, upon motion and good cause shown.

7 **B.** Pursuant to the Eastern District of Washington Local
8 Criminal Rule 16, the Court presumes a defense
9 request for discovery under Federal Rule of Criminal
10 Procedure 16 for **documents and objects**, Fed. R. Crim.
11 P. 16(a)(1)(E), **reports of examinations and tests**,
12 Fed. R. Crim. P. 16(a)(1)(F), **AND expert witnesses**,
13 Fed. R. Crim. P. 16(a)(1)(G). Therefore, the Court
14 imposes a reciprocal duty on defense counsel to
15 provide discovery under Rule 16(b)(1)(A-C) **for each**
16 **of the above categories**. Defendants who do not wish
17 to invoke reciprocal discovery obligations must file
18 a notice with the Court and with opposing counsel
19 prior to accepting discovery from the Government.

20 **C.** The Court further presumes a request for discovery
21 and disclosure under Federal Rules of Evidence
22 404(b), 608(b), and 609, *Brady v. Maryland*, 373 U.S.
23 83 (1963), *Giglio v. United States*, 405 U.S. 150
24 (1972), *United States v. Henthorn*, 931 F.2d 29 (9th
25 Cir. 1991), and their progeny.

1 **D.** For those discovery matters ordered to be disclosed
2 by this Order, a party shall not file a motion
3 seeking such discovery, unless the disclosing party
4 fails to timely produce such discovery.

5 **E.** Any party seeking discovery or disclosure not
6 otherwise provided for in this Order, or discovery
7 that was ordered by this Order and not timely
8 provided, shall file a motion stating the specific
9 materials sought and the legal authority for the
10 specific request, and certify that the movant has in
11 good faith conferred or attempted to confer with the
12 opposing party in an effort to obtain the discovery
13 or disclosure without court action.

14 **6. Expert-Witness Summaries**

15 **A.** Each party shall produce to opposing counsel all
16 summaries of its expert-witness testimony for which
17 disclosure is required under Federal Rule of Criminal
18 Procedure 16, by the deadlines set forth below:

19 **USAO's Experts: January 27, 2017**

20 **Defendants' Experts: February 3, 2017**

21 **USAO's Rebuttal Experts: February 10, 2017**

22 Also by the applicable deadline, counsel shall email
23 an electronic copy of the summary to the Court at
24 SheaOrders@waed.uscourts.gov and shall simultaneously
25 file a Notice of Compliance with this requirement.
26

1 **B.** All summaries of expert witness testimony must
2 conform to Federal Rule of Criminal Procedure 16 and
3 applicable case law interpreting that Rule. The
4 Court will not permit an expert witness to testify
5 about opinions which are not explicitly expressed in
6 that expert's summary. *See, e.g., United States v.*
7 *W.R. Grace*, 526 F.3d 499 (9th Cir. 2008).

8 **C.** A party is not permitted to call more than two expert
9 witnesses on any issue, except with permission of the
10 Court. L.R. 43(a)(3).

11 **7. Motions Practice**

12 **A. Generally.** By no later than **February 17, 2017**, all
13 pretrial motions – including discovery motions,
14 *Daubert* motions, and motions *in limine* – must be
15 filed and served. *See* Fed. R. Crim. P. 12(c). All
16 motions shall either be: (a) noted for hearing
17 without oral argument 14 days after filing, or (b)
18 noted for hearing with oral argument at the pretrial
19 conference. Responses and replies to motions must be
20 filed in accordance with Local Rule 7.1.

21 **B. Expedited Hearing.** Any party seeking an expedited
22 hearing on a time-sensitive matter must file a motion
23 to expedite which (i) demonstrates good cause, (ii)
24 states the position of the opposing party to the
25 motion, and (iii) sets a date of hearing that is no
26 less than **seven days** after the motion's filing.

Should the motion to expedite require more immediate judicial attention, the motion shall establish the necessity for an immediate hearing, and the filing party shall notify chambers staff of the motion.

8. Trial Continuances

A. Motion Deadline. All motions to continue the trial must be heard before or at the pretrial conference. Any motion to continue trial made after the pretrial conference has occurred will not be granted absent exceptional circumstances.

B. Statement of Reasons. Pursuant to 18 U.S.C. § 3161, if the Defendant seeks a continuance, a Statement of Reasons in support of the motion to continue must be filed contemporaneously with the motion.¹ The Statement of Reasons must (i) be signed by the Defendant, (ii) be signed by a certified translator, if applicable, and (iii) indicate the latest date upon which Defendant is willing to proceed to trial.

C. Procedure. Before filing a motion to continue, counsel shall first contact the Courtroom Deputy at (509) 943-8172 to obtain new pretrial conference and trial dates consistent with the length of the requested trial continuance. Thereafter, counsel

¹ The Court's Statement of Reasons template can be found at the following link: http://www.waed.uscourts.gov/sites/default/files/forms/efs_stmt_reasons_mot_to_cont_20130214.pdf.

1 shall confer with opposing counsel regarding new case
2 management deadlines consistent with the new pretrial
3 conference and trial date. **All motions to continue**
4 **must include new proposed case management deadlines**
5 **(either joint or individual) to ensure the to-be-**
6 **imposed deadlines are best suited to this case.**

7 **9. Pretrial Conference**

8 **A. The first pretrial conference is SET for December 13,**
9 **2016, at 1:30 p.m. in RICHLAND.**

10 **B. The second pretrial conference is SET for February**
11 **21, 2017, at 1:30 p.m. in RICHLAND.**

12 **C. The third, and final, pretrial conference is SET for**
13 **March 28, 2017, at 1:30 p.m. in RICHLAND. At this**
14 **hearing, the Court will hear ALL pretrial motions.**

15 **D. All Pretrial Conferences are scheduled to last no**
16 **more than 30 minutes, with each side allotted 15**
17 **minutes to present their own motions and resist**
18 **motions by opposing counsel. If any party**
19 **anticipates requiring longer than 15 minutes, that**
20 **party must notify the Courtroom Deputy at least seven**
21 **days prior to the hearing. Any party who fails to**
22 **provide this notice will be limited to 15 minutes.**

23 **10. Confidential Informants (CIs).** By no later than **March 31,**
24 **2017,** the USAO shall disclose to Defendants the identity of
25 any CIs used in the case and shall advise Defendants at
26

that time whether any CI so identified is willing to be interviewed by defense counsel.

11. Grand Jury Transcripts. The USAO shall produce copies of the grand jury transcripts for any witness it intends to call at trial by: **March 31, 2017.**

12. Exhibit Lists

A. By no later than **April 7, 2017**, each party shall file a list of exhibits the party intends to introduce at trial. Each party shall also email copies of their exhibit list to the Court at SheaOrders@waed.uscourts.gov. The parties shall provide their exhibit list in the following format:

Ex. #	Admitted	Description
1		Photograph of items seized
2		Aerial video surveillance from 01/01/2016. Start Time: 01:03:23 End Time: 01:09:54

Exhibit lists shall include a unique exhibit number and a brief description of the exhibit. For all exhibits consisting of an audio or video file, the exhibit list must designate the precise beginning and ending time indexes of the portion of the file the party intends to use at trial.

B. The USAO shall consecutively number their exhibits from **1 to 999**. In single-defendant cases, Defendant shall consecutively number exhibits from **1000 to 1999**; in multi-defendant cases, Defendants shall

consecutively number exhibits from x000 to x999, substituting "x" for each Defendant's assigned case identifier (e.g. Defendant 3 would number exhibits from 3000 to 3999, etc.). Exhibits shall be pre-marked for identification before trial commences.

13. **Witness Lists.** By no later than **April 7, 2017**, each party shall file and serve a list of witnesses that party intends to call to testify at trial. **The witness list must identify the existence, but need not include the name, of any CI the USAO intends to call to testify.** Parties shall email copies of their witness list to the Court at SheaOrders@waed.uscourts.gov.

14. **Requested Voir Dire, Trial Briefs, Proposed Jury Instructions, and Verdict Form.** By no later than **April 7, 2017**, each party shall file requested voir dire, a trial brief, proposed jury instructions, and verdict form, in accordance with the requirements below. Each party shall email copies to the Court at SheaOrders@waed.uscourts.gov.

A. Requested Voir Dire. The parties may request that the Court include specific questions during the Court's standard voir dire. Requested voir dire shall not duplicate information elicited in the Clerk's Office Jury Questionnaire ("COJQ") and the Court's Criminal Jury Trial Procedures Letter.

1 **B. Trial Briefs.** Trial briefs shall not exceed 20 pages
2 without prior Court approval, upon motion and good
3 cause shown. LR 39.1.

4 **C. Proposed Jury Instructions and Verdict Form.** Jury
5 instructions shall (i) address issues that are unique
6 to the case, and (ii) include instructions regarding
7 the elements of each charge or defense. If a Ninth
8 Circuit Model Jury Instruction exists for a
9 particular charge or defense, the parties shall
10 provide the model instruction or shall submit
11 argument as to why the instruction is inadequate or
12 no longer supported by law. Proposed jury
13 instructions shall be accompanied by a proposed
14 verdict form. **The parties must confer to develop**
15 **joint proposed jury instructions and the verdict**
16 **form.** The Court will only accept an individual
17 party's proposed jury instructions on those
18 points/issues upon which the parties could not agree,
19 and only if the party's memoranda accompanying the
20 individually proposed instruction(s) sets forth the
21 legal authority and justification for why the
22 instruction is necessary.

23 **15. Exhibits**

24 **A. Exhibit Binders.** By no later than **April 10, 2017,**
25 each party must provide to the Court two Bates-
26 stamped copies of all trial exhibits – or, in the

1 case of physical exhibits, a photograph or other
2 reproduction of the exhibit – the party intends to
3 introduce at trial. All trial exhibits shall be
4 organized sequentially by exhibit number in a three-
5 ring binder. The exhibit binders provided to the
6 Court will not be available for use by the attorneys
7 at trial.

8 **B. JERS.**

9 i. The Court utilizes the Jury Evidence Recording
10 System (JERS), a system that makes evidence
11 digitally available to the jury during
12 deliberations. **Counsel shall promptly consult the**
13 **Court's JERS Information web page² to acquaint**
14 **themselves with JERS procedures and to ensure they**
15 **acquire, retain, and provide evidence to the Court**
16 **in the necessary format.**

17 ii. By no later than **April 7, 2017**, each party who
18 intends to introduce evidence at trial must supply
19 its JERS exhibits to the Courtroom Deputy in the
20 manner and format set forth in the JERS - Basics
21 for Lawyers document.³ Counsel may contact the
22 Courtroom Deputy at (509) 943-8172.

24 ² <http://www.waed.uscourts.gov/jers-information>.

25 ³ This document can be found on the Court's public website at:
26 <http://www.waed.uscourts.gov/sites/default/files/u86/JERS%20-%20Basics%20for%20Lawyers.pdf>.

1 **C. Exchange of Exhibits.** By no later than **April 7,**
2 **2017,** each party must provide to all other parties a
3 copy of the exhibits it intends to introduce at
4 trial. The exhibits must be provided in digital
5 format, unless the parties agree otherwise.

6 **16. Trial Notices.** By no later than **April 7, 2017,** each party
7 shall file a notice that indicates the amount of time
8 requested for voir dire and for opening statement. In
9 addition, defense counsel must indicate if his/her client
10 waives presence at sidebar and jury questions.

11 **17. Technology Readiness Meeting.** By no later than **April 10,**
12 **2017,** any party seeking to offer video or audio evidence at
13 trial must meet with Court staff at the location of the
14 trial to verify compatibility with the Court's presentation
15 systems. The parties shall contact the Courtroom Deputy at
16 (509) 943-8172 to arrange this meeting.

17 **18. Trial.** The jury trial is **RESET** from October 17, 2016, to
18 **April 17, 2017,** at **9:00 a.m.** in **RICHLAND.** Counsel and
19 Defendants shall be prepared to meet with the Court at
20 least 30 minutes prior to the commencement of the trial.

21 **19.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the
22 Court **DECLARES EXCLUDABLE from Speedy Trial Act**
23 **calculations** the period from **September 27, 2016,** the date
24 the parties moved to continue, through **April 17, 2017,** the
25 new trial date, as the period of delay granted for adequate
26 preparation by counsel.

20. Summary of Deadlines

FIRST PRETRIAL CONFERENCE	December 13, 2016 1:30 P.M. - RICHLAND
Rule 16 expert summaries produced to other parties and emailed to Court: USAO's Experts: Defendants' Experts: USAO's Rebuttal Experts:	January 27, 2017 February 3, 2017 February 10, 2017
All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	February 17, 2017
SECOND PRETRIAL CONFERENCE	February 21, 2017 1:30 P.M. - RICHLAND
FINAL PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	March 28, 2017 1:30 P.M. - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	March 31, 2017
Grand jury transcripts produced to Defendants:	March 31, 2017
Exhibit and witness lists filed and emailed to the Court	April 7, 2017
Requested voir dire, trial briefs, jury instructions, and verdict forms filed and emailed to the Court	April 7, 2017
Exhibits delivered to all other parties	April 7, 2017
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	April 7, 2017
Trial notices filed with the Court	April 7, 2017
Exhibit binders delivered to the Court	April 10, 2017
Technology readiness meeting (in-person)	April 10, 2017
JURY TRIAL	April 17, 2017 9:00 A.M. - RICHLAND

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this 3rd day of October 2016.

s/Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge